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MEMO ENDORSED

IT IS ORDERED that counsel to whom this Memo Endorsement is sent is responsible for faxing or otherwise delivering promptly a copy to all counsel and unrepresented parties and filing a certificate of such service within 5 days from the date hereof. Do not fax such certification to Chambers.

October 1, 2007

VIA FACSIMILE TRANSMISSION: (212)-805-0426

The Honorable Laura Taylor Swain
United States District Court
40 Foley Square
New York, NY 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: OCT 01 2007

Re: Ario v. Constitution State Services; Case No. 07-cv-7454 (LTS)

Dear Judge Swain:

On September 4, 2007, the Court entered an Order requiring plaintiff, Joel S. Ario, as statutory Liquidator for Reliance Insurance Company (In Liquidation), to file a Supplement to the Complaint containing allegations sufficient to demonstrate a basis for subject matter jurisdiction over defendant, Constitution States Services, LLC ("Constitution"). A copy of the September 4, 2007 Order is enclosed for your reference.

Regrettably our Firm did not receive a copy of the September 4, 2007 Order and we only learned of the Order on October 1, 2007, during a routine docket search. (We are investigating why we did not receive notice through the ECF system).

We respectfully request that the Court permit plaintiff to file a Supplement to the Complaint within ten days (i.e. by October 11, 2007) to address the jurisdictional issue. We have spoken with Wilbur Kipnes, one of the attorneys at Schnader Harrison who will be representing Constitution in this case. Mr. Kipnes has confirmed that Constitution does not object to our request for an extension of the deadline to file the Supplement.

Thank you for your consideration of this request.

Respectfully,

John A. Wait
Enclosure

The request is granted. Counsel are directed to register for the ECF system.

SO ORDERED.

10/1/07
LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE

cc: Wilbur Kipnes (w/enc. via email: wkipnes@schnader.com and facsimile: (215) 751-2205).

Faxed to PLA Atty
Copies mailed to Chambers of Judge Swain

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: SEP 04 2007

JOEL S. ARIO, in his official capacity as
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania, as statutory
Liquidator of RELIANCE INSURANCE
COMPANY (IN LIQUIDATION),

Plaintiff,

-v-

No. 07 Civ. 7454 (LTS)(THK)

CONSTITUTION STATE SERVICES, LLC
f/k/a CONSTITUTION STATE SERVICE
COMPANY,

Defendant.

ORDER

WHEREAS, this action was commenced by the filing of a Complaint on August 22, 2007; and

WHEREAS, the Court has reviewed such Complaint to ascertain the basis for assertion of subject matter jurisdiction in this court; and

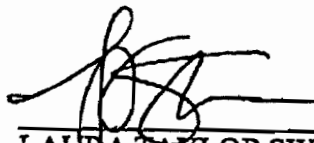
WHEREAS, such Complaint asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) requires a demonstration that the action is between citizens of different states and, where one party is a limited liability company (LLC), the LLC's citizenship is the same as that of each member, Strother v. Harte, 171 F. Supp. 2d 203, 205 (S.D.N.Y. 2001), and with respect to the Defendant Constitution State Services, LLC, the Complaint alleges merely that "CSS is a business enterprise organized under Delaware law with its principal place of business in Connecticut";

WHEREAS, "subject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power," E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925, 929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[w]hen it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action;" it is hereby

ORDERED, that plaintiff shall, no later than September 14, 2007, file and serve a

Supplement to the Complaint containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction.

Dated: New York, New York
September 4, 2007



LAURA TAYLOR SWAIN
United States District Judge



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DATE: OCTOBER 1, 2007

FACSIMILE TRANSMITTAL SHEET

TO: Scan Young, Esq.	COMPANY: The Chambers of The Honorable Laura Taylor Swain	FAX NUMBER: 212-805-0426	PHONE NUMBER:
Wilbur Knipes, Esq.	Schnader Harrison	215-751-2205	
FROM: John A. Wait	PHONE NUMBER: (212) 878-7907	EMAIL: jwait@foxrothschild.com	BILLING NUMBER: 1352
NUMBER OF PAGES: 4	CHARGE FILE #:	PRIORITY: IMPORTANT	LOG NUMBER:

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☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☒ PLEASE REPLY ☐ FOR YOUR INFORMATION

NOTES/COMMENTS:

Dear Mr. Young:

Per our conversation this morning, I enclose a letter respectfully requesting an extension of the deadline for plaintiff to file a Supplement to the Complaint in civil action no. 07-7454. We have conferred with Wilbur Knipes, the attorney whose firm will be representing the defendant, Constitution State Services, LLC. ("Constitution"), and he has confirmed that Constitution does not object to this request for an extension.

Please let me know if the Court requires any additional information. My direct dial is 212-878-7907.

Thank you for your assistance.

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